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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,066	01/14/2002	Stephen F. Gass	SDT 324	7446
27630	7590	10/06/2003		
SD3, LLC 22409 S.W. NEWLAND ROAD WILSONVILLE, OR 97070			EXAMINER ASHLEY, BOYER DOLINGER	
			ART UNIT 3724	PAPER NUMBER
			DATE MAILED: 10/06/2003	

Please find below and/or attached an Office communication concerning this application or proceeding.

①-3-4  
5-6-7

## Office Action Summary

Application No.

10/047,066

Applicant(s)

GASS ET AL.

Examiner

Boyer D. Ashley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-18 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other: \_\_\_\_

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-9, drawn to a miter saw having a linkage arms, classified in class 83, subclass 604.
  - II. Claims 10-15, drawn to a miter saw having a tilting mechanism, classified in class 83, subclass 581.
  - III. Claims 16-20, drawn to a miter saw having a pivot pin, classified in class 83, subclass 477.1.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions of Groups I-III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. For example, linkage arms of Group I could be used without the tilting mechanism of Group II; and conversely, the tilting mechanism of Group II does not require the linkage arms of Group I. See MPEP § 806.05(d).
3. If the applicant elects Group I above the applicant must further elect between the following groups.
  - A. Claim 2, drawn to a miter saw having fastener and opening in the support frame for facilitating installation of the fastener, classified in class 83, subclass 698.11.
  - B. Claims 3-7, drawn to a miter saw having a linkage assembly, classified in class 83, subclass 604.

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- C. Claim 8, drawn to a miter saw with a detection system, classified in class 83, subclass 62.1
- D. Claim 9, drawn to a miter saw with a guard, classified in class 83, subclass 397.

Claim 1 is in no group and will be examined with the elected invention. Claim 1 links the inventions of Groups A-D. The restriction requirement of the linked inventions is subject to the nonallowance of the linking claim 1. Upon the allowance of the linking claim, the restriction requirement as to the linked inventions shall be withdrawn and any claims depending from or otherwise including all the limitations of the allowable linking claims will be entitled to examination in the instant application. Applicants are advised that if any such claims depending from or including all the limitations of the allowable linking claims is/are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP 804.01.

4. Inventions of Groups A-D are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. For example, the fastener and opening of Group A could be used without the miter saw guard of Group D; and conversely, the

miter saw guard of Group D could be used without the fastener and opening of Group A.  
See MPEP § 806.05(d).

5. If the applicant elects Group II above the applicant must further elect between the following groups.

- A. Claim 12, drawn to a miter saw having tilt mechanism, classified in class 83, subclass 581.
- B. Claims 11 and 13-14, drawn to a miter saw having an urging means using angular momentum, classified in class 83, subclass 588.
- C. Claim 15, drawn to a miter saw with a detection system, classified in class 83, subclass 62.1

Claim 10 is in no group and will be examined with the elected invention. Claim 10 links the inventions of Groups A-C. The restriction requirement of the linked inventions is subject to the nonallowance of the linking claim 10. Upon the allowance of the linking claim, the restriction requirement as to the linked inventions shall be withdrawn and any claims depending from or otherwise including all the limitations of the allowable linking claims will be entitled to examination in the instant application. Applicants are advised that if any such claims depending from or including all the limitations of the allowable linking claims is/are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of

35 U.S.C. 121 are no longer applicable. *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP 804.01.

6. Inventions of Groups A-C are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. For example, the tilting mechanism of Group A could be used without the detection system of Group C; and conversely, the detection system of Group C could be used without the tilting mechanism of Group A. See MPEP § 806.05(d).

7. If the applicant elects Group III above the applicant must further elect between the following groups.

- A. Claims 17 and 18, drawn to a miter saw having pivot pin, classified in class 83, subclass 477.1.
- B. Claims 19 and 20, drawn to a miter saw having guard, classified in class 83, subclass 397.

Claim 16 is in no group and will be examined with the elected invention. Claim 16 links the inventions of Groups A-C. The restriction requirement of the linked inventions is subject to the nonallowance of the linking claim 16. Upon the allowance of the linking claim, the restriction requirement as to the linked inventions shall be withdrawn and any claims depending from or otherwise including all the limitations of the allowable linking claims will be entitled to examination in the instant application. Applicants are advised that if any such claims depending from or including all the limitations of the allowable linking claims is/are presented in a continuation or divisional

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application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP 804.01.

8. Inventions of Groups A-B are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. For example, the pivot pin of Group A could be used without the guard of Group B; and conversely, the Guard of Group B could be used without the pivot pin of Group A. See MPEP § 806.05(d).

9. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

10. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).



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11. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boyer D. Ashley whose telephone number is 703-308-1845. The examiner can normally be reached on Monday-Thursday 7:30-6:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 703-308-1082. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.



Boyer D. Ashley  
Primary Examiner  
Art Unit 3724

BDA  
September 4, 2003